

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 1:20-cr-443 (GHW)
	:	
HERBALIFE NUTRITION LTD.	:	
	:	
Defendant.	:	

GOVERNMENT’S UNOPPOSED MOTION TO DISMISS INFORMATION

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, the United States of America, by and through undersigned counsel, hereby moves to dismiss the Information filed in the above-captioned case against defendant Herbalife Nutrition Ltd. (the “Company”) with prejudice. In support of this motion the Government states as follows:

1. On August 14, 2020, the Government filed a notice of intent to file an information upon the Company’s waiver of indictment. See ECF Dkt. No. 1.

2. On August 28, 2020, the Government filed a one-count criminal Information charging the Company with conspiracy to commit an offense against the United States, in violation of 18 U.S.C. § 371, that is, to violate the books and records provisions of the Foreign Corrupt Practices Act of 1977 (“FCPA”), as amended, 15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(5), and 78ff(a). See ECF Dkt. No. 2 (the “Information”).

3. Previous to filing the Information, on August 24, 2020, the Government entered into a deferred prosecution agreement with the Company, in which the Government deferred prosecution of the Company for a period of three years. See Exhibit 1 (the “DPA”). Among other obligations, the DPA required the Company to cooperate with the Government’s investigation and required the Company to implement an enhanced compliance program for a period of at least three

years. See id. ¶¶ 4(c)-(d); 5; 9-10. The Company was also required to pay a criminal monetary penalty of \$55,743,093. Id. at ¶ 7.

4. The DPA provided that the Government would not continue the criminal prosecution against the Company and would move to dismiss the Information within six months of the expiration of the DPA if the Company fully complied with all of its obligations under the DPA. See id. ¶ 13.

5. The DPA expired on or about August 28, 2023.

6. On or about September 6, 2023, the Chief Executive Officer and Chief Financial Officer of the Company certified to the Government that the Company had met its disclosure obligations pursuant to paragraph 6 of the DPA.

7. Based on the information known to the Government, the Company has fully met its disclosure obligations under the DPA, including full cooperation with the Government, implementation of an enhanced compliance program and procedures, and satisfaction of the terms of the provisions regarding self-reporting. In addition, on or about September 3, 2020, the Company made timely payment of the \$55,743,093 criminal monetary penalty.

8. Because the Company has fully complied with all of its obligations under the DPA, the Government has determined that dismissal of the Information with prejudice is appropriate. See DPA ¶ 13.

For the foregoing reasons, the Government requests that this Motion to Dismiss the Information be granted.

Respectfully submitted,

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